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Felix J. D'Ambrosio
Bacon & Thomas, PLLC
625 Slaters Lane - 4th Floor
Alexandria, VA 22314

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|----------------------------------|---|---------------------|
| In re Application of | : | |
| SOBEK | : | |
| U.S. Application No.: 10/018,967 | : | DECISION ON RENEWED |
| PCT No.: PCT/EP00/05270 | : | |
| Int. Filing Date: 07 June 2000 | : | PETITION UNDER |
| Priority Date: 11 June 1999 | : | |
| Attorney Docket No.: 112-041 | : | 37 CFR 1.181 |
| For: LAMINATED GLASS SYSTEM | : | |

This decision is in response to applicant's "Request For Reconsideration" filed 24 March 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 28 February 2006, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present application. Applicant was afforded two months to file any request for reconsideration.

On 26 March 2006, applicant filed the renewed petition under 37 CFR 1.181 considered herein.

DISCUSSION

The present application became abandoned as to the National stage in the United States for failure to timely file a proper response to the "NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) mailed 18 June 2002. As detailed in the decisions mailed 28 October 2005 and 28 February 2006, applicant's response of 18 July 2002 did not rectify the issue raised in the notification. Specifically, applicant did not supply an English translation of the international application as filed.

Applicant presently concedes that the originally filed international application contained 20 claims and whereas the subsequently filed English translation contained 22 claims. However, applicant argues that the filed English translation still complies with the 37 CFR 1.495 (c)(1)(i) requirement.

Applicant's first contention is that the differences between the originally filed 20 claims and 22 claims contained in the English translation are negligible in substance. In addition, applicant argues that the process of translation cause these "de-minimis" errors to occur and in effect, "it can be appreciated that the translation of the 22 claims also amounts to a translation of the 20 claims." Applicant is advised that neither the treaty nor the applicable statutes and regulations provide for acceptance of the English

translation under the standard advanced by applicant. At a minimum, the two additionally numbered claims in the English translation demonstrate that the later filed document is not a literal English translation of the originally filed claims.

Applicant further cites MPEP § 1893.01(d) that applicant must provide a translation of the international application as filed, "or with any changes which have been properly accepted under PCT Rule 91." Applicant contends that the changing of a claim which identifies three elements of novelty to identify two elements of novelty is an error of transcription and thus an obvious error. Yet, in the present case, the claims were not changed pursuant to PCT Rule 91. While the claims were "accepted" in the international stage in so much as they are part of the application, they were changed through the filing of an amendment; not a request for rectification. Thus, the particular clause of MPEP § 1893.01(d) cited by applicant does not apply.

Lastly, applicant states that "original claims 1-20 are included in claims 1-22 which were translated. The requirement to provide a translation of the originally filed claims has, therefore, been satisfied." This is not correct. It is not sufficient to merely provide an English translation of the claims somewhere within the document. The English translation must literally be an English translation of the claims as filed within the exceptions detailed in MPEP § 1893.01(d).

RECOMMENDATION

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.181 is **DISMISSED**.

This application remains abandoned as to the United States of America.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', written in a cursive style.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459